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6

7
8 **BEFORE THE**
BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation) NO. AL-98-2
11 Against:)
12 RONALD JAMES DALE) DEFAULT DECISION
17096 Sequoia #F)
13 Hesperia, CA 92345) [Gov. Code §11520]
Certified Public Accountant)
14 Certificate No. CPA 31743)
15 Respondent.)

16
17 FINDINGS OF FACT

18 1. On or about December 9, 1997, Complainant Carol B.
19 Sigmann, in her official capacity as Executive Officer of the Board
20 of Accountancy, Department of Consumer Affairs, State of California
21 ("Board"), filed Accusation No. AL-98-2 against Ronald James Dale
22 ("respondent").

23 2. On or about January 5, 1998, Eumelia Y. Guzman, an
24 employee of the Office of the Attorney General, sent by certified
25 mail a copy of Accusation No. AL-98-2, Statement to Respondent,
26 Government Code sections 11507.5, 11507.6, and 11507.7, the Notice
27 of Defense form, and a Request for Discovery, to respondent's

1 address of record with the Board which was and is 17096 Sequoia
2 #F, Hesperia, CA 92345,. The aforementioned documents were returned
3 to the Office of the Attorney General marked "Moved. Left No
4 Address " by the U.S. Postal Service. The above-described service
5 was effective as a matter of law pursuant to the provisions of
6 California Government Code section 11505, subdivision (c).

7 3. On March 6, 1981, the Board issued Certified Public
8 Accountant Certificate No. CPA 31743 to respondent. Said
9 certificate expired on April 1, 1996, and is not currently in
10 effect.

11 4. California Business and Professions Code section 118
12 provides, in pertinent part:

13 "(b) The suspension, expiration, or forfeiture by
14 operation of law of a license issued by a board in the
15 department, or its suspension, forfeiture, or cancellation by
16 order of the board or by order of a court of law, or its
17 surrender without the written consent of the board, shall not,
18 during any period in which it may be renewed, restored,
19 reissued, or reinstated, deprive the board of its authority to
20 institute or continue a disciplinary proceeding against the
21 licensee upon any ground provided by law or to enter an order
22 suspending or revoking the license or otherwise taking
23 disciplinary action against the license on any such ground."

24 5. California Business and Professions Code section
25 5070.6 provides in pertinent part that an expired permit may be
26 renewed at any time within five years after its expiration on
27 filing an application for renewal, payment of renewal fees and

1 evidence of compliance with continuing education requirements.

2 6. California Government Code section 11506 provides, in
3 pertinent part:

4 "(b) The respondent shall be entitled to a hearing on the
5 merits if he files a notice of defense, and any such notice
6 shall be deemed a specific denial of all parts of the
7 accusation not expressly admitted. Failure to file such
8 notice shall constitute a waiver of respondent's right to a
9 hearing, but the agency in its discretion may nevertheless
10 grant a hearing. ..."

11 7. Respondent failed to file a Notice of Defense within
12 15 days after service upon him of the Accusation and therefore
13 waived his right to a hearing on the merits of Accusation No.
14 AL-98-2.

15 8. California Government Code section 11520 provides, in
16 pertinent part:

17 "(a) If the respondent fails to file a notice of defense
18 or to appear at the hearing, the agency may take action based
19 upon the respondent's express admissions or upon other
20 evidence and affidavits may be used as evidence without any
21 notice to respondent; ...

22 "(b)

23 "(c) Within seven days after service on respondent of a
24 decision based on the respondent's default, the respondent may
25 serve a written motion requesting that the decision be vacated
26 and stating the grounds relied on. The agency in its
27 discretion may vacate the decision and grant a hearing on a

1 showing of good cause. . . ."

2 9. The Board of Accountancy, Department of Consumer
3 Affairs, is authorized to revoke respondent's Certified Public
4 Accountant Certificate pursuant to the following provisions of the
5 California Business and Professions Code:

6 a. Section 5100 provides that the Board may revoke,
7 suspend or refuse to renew any permit or certificate issued by
8 the Board, or may censure the holder of any such permit or
9 certificate, for unprofessional conduct including but not
10 limited to (f) the willful violation of the Accountancy Act or
11 any rule or regulation promulgated by the Board.

12 b. Title 16, California Code of Regulations, section
13 95.4 provides in pertinent part that, "The failure of a
14 licensee to comply with a citation containing an assessment of
15 administrative fine, on order of correction or abatement after
16 the citation is final . . . shall constitute a ground for
17 revocation or suspension of the license or permit."

18 10. Pursuant to its authority under Government Code
19 section 11520, and based on the evidence before it, the Board finds
20 that the allegations, and each of them, contained in the Accusation
21 No. AL-98-2 are true.

22 DETERMINATION OF ISSUES

23 1. Respondent is subject to disciplinary action pursuant
24 to section 5100, subdivision (f), of the Business and Professions
25 Code and Title 16, California Code of Regulations, section 95.4 by
26 reason of the Finding of Facts numbers 1 through 10, above.

27 ///

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BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
9 STATE OF CALIFORNIA
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11 In the Matter of the Accusation) NO. AL-98-2
Against:)
12)
RONALD JAMES DALE) ACCUSATION
13 17096 Sequoia #F)
Hesperia, CA 92345)
14)
Board of Accountancy No.)
15 CPA 31743)
Respondent.)
16

17 Complainant Carol B. Sigmann, as cause for disciplinary
18 action, alleges:

19 PARTIES

20 1. Complainant is the Executive Officer of the
21 California Board of Accountancy ("Board") and makes and files
22 this accusation solely in her official capacity.

23 License Information

24 2. On or about March 6, 1981, Board Certificate No.
25 31743 (the "Certificate") was issued to Ronald James Dale
26 ("Respondent"). The Certificate expired on April 1, 1990, and
27 was not valid during the period April 1, 1990, through October

1 22, 1991, for the following reasons:

2 (a) The renewal fee, required by Business and
3 Professions Code section 5070.5 (hereinafter "B&P Code"),
4 was not paid;

5 (b) Evidence of compliance with continuing education
6 regulations was not submitted.

7 3. The Certificate was renewed effective October 23,
8 1991, for the period ending March 31, 1992, upon receipt of the
9 renewal fee and evidence of compliance with continuing education
10 regulations from Respondent.

11 4. The Certificate expired on April 1, 1992, and was
12 not valid for the period April 1, 1992, through April 21, 1992,
13 for the following reasons:

14 (a) The renewal fee, required by B&P Code section
15 5070.5, was not paid;

16 (b) Evidence of compliance with continuing education
17 regulations was not submitted.

18 5. The Certificate was renewed effective April 22,
19 1992, for the period ending March 31, 1994, upon receipt of the
20 renewal fee from Respondent. Evidence of compliance with
21 continuing education regulations was not submitted. Evidence of
22 compliance with continuing education regulations was received
23 from Respondent on November 3, 1993.

24 6. The Certificate was renewed effective April 1,
25 1994, for the period ending March 31, 1996, upon receipt of the
26 renewal fee and evidence of compliance with continuing education
27 regulations from the Respondent.

1 7. The Certificate is not currently in force and
2 effect and expired on April 1, 1996, for the following reasons:

3 (a) The renewal fee, required by B&P Code section
4 5070.5, was not paid;

5 (b) Evidence of compliance with continuing education
6 regulations was not submitted.

7 STATUTES AND REGULATIONS

8 8. At all times material herein, B&P Code Section
9 5100 has provided in pertinent part that "[a]fter notice and
10 hearing, the [B]oard may revoke, suspend, or refuse to renew any
11 permit or certificate" issued by the Board for unprofessional
12 conduct, including but not limited to the willful violation of
13 the Accountancy Act or any rule or regulation promulgated by the
14 Board [B&P Code Section 5100(f).]

15 9. B&P Code Section 125.9 permits the Board to
16 establish, by regulation, a system for the issuance to a licensee
17 of a citation which may contain an order of abatement or an order
18 to pay an administrative fine where the licensee is in violation
19 of the licensing act or any regulation adopted pursuant thereto.
20 B&P Code Section 125.9(b)(5) provides in part that the failure of
21 a licensee to pay a fine within 30 days of the date of
22 assessment, unless the citation is being appealed, may result in
23 disciplinary action being taken by the Board.

24 10. The Board's regulations, adopted pursuant to its
25 rule-making authority and B&P Code Section 125.9, and codified in
26 Title 16 of the California Code of Regulations (hereinafter
27 "CCR"), provide, in CCR Section 95 et seq., for the issuance of

1 citations by the Executive Officer of the Board. ICR Section
2 95.4 provides in pertinent part as follows: "The failure of a
3 licensee to comply with a citation containing an assessment of
4 administrative fine, an order of correction or abatement after
5 this citation is final . . . shall constitute a ground for
6 revocation or suspension of the license or permit."

7 11. Under B&P Code Section 118(b), the suspension,
8 expiration, or forfeiture by operation of law of a license issued
9 by the Board, or its suspension, forfeiture, or cancellation by
10 order of the Board or by order of a court of law, or its
11 surrender without the written consent of the Board, shall not,
12 during any period in which it may be renewed, restored reissued
13 or reinstated, deprive the Board of its authority to institute or
14 continue a disciplinary proceeding against the licensee upon any
15 ground provided by law or to enter an order suspending or
16 revoking the license or otherwise taking disciplinary action
17 against the license on any such ground.

18 12. B&P Code Section 5070.6 provides, in part, that an
19 expired license may be renewed, upon compliance with applicable
20 requirements, at any time within five years after expiration.

21 CAUSE FOR DISCIPLINE

22 13. Respondent is subject to disciplinary action
23 because he failed to comply with Board Citation No. CT-95-43 (the
24 "Citation") which has become a final order of the Board. A true
25 and correct copy of the Citation is attached hereto as Exhibit
26 "A" and incorporated herein by reference as though fully set
27 forth. The circumstances are as follows:

1 a. On or about April 21, 1995 Citation No. CT-
2 95-43 was issued to Ronald James Dale. The Citation
3 contained two alleged violations, set forth orders of
4 abatement and correction, imposed administrative fines
5 totaling \$2250.00 and established May 21, 1995, as the date
6 on which, unless contested, the Citation was to become a
7 final order of the Board. Item 1 charged a violation of B&P
8 Code Section 5100(f) for willful violation of CCR Section
9 87.6 for failure to complete sixteen hours of required
10 qualifying continuing education as mandated by the Positive
11 Enforcement Program Committee, ordered Respondent to submit
12 completion certificates to the Board showing compliance
13 within sixty days, and imposed an administrative fine of
14 \$1250. Item 2 charged a violation of CCR Section 87(a) for
15 certifying on his renewal application of completion of 80
16 hours of qualifying continuing education as required by CCR
17 Section 89, when he only could verify 68 hours, ordered
18 Respondent to cease and desist practicing as a CPA in
19 California until he completed the required hours, supply
20 evidence of completion of 12 more hours of Continuing
21 Education within sixty days, and imposed an administrative
22 fine of \$1000.

23 b. On or about April 21, 1995, copies of the
24 Citation, Statement to Cited Person, Notice of Appeal, and
25 relevant Government Code Sections (the "Citation Package")
26 were served pursuant to the provisions of California
27 Government Code Section 11505, subdivision (c) and under B&P

1 Code Section 124, by both Certified Mail and First Class
2 Mail, by Alice Delvey-Williams, an employee of the Board, on
3 Respondent at his address of record with the Board, which
4 address was and is 17095 Sequoia #F, Hesperia, California
5 92345.

6 c. On or about April 24, 1995, the green
7 "Domestic Return Receipt" and the package sent by Certified
8 Mail were returned to the Board by the U.S. Postal Service.
9 The above-described service was effective as a matter of
10 law. The Citation became a Final Order of the Board on May
11 21, 1995.

12 14. On or about September 26, 1995, a modification to
13 Citation CT-95-43 was issued to Respondent. A true and correct
14 copy of the modification is attached hereto as Exhibit "B" and
15 incorporated herein by reference as if fully set forth. The
16 modification extended the time to complete the sixteen hours of
17 Continuing Education under Item 1 until October 26, 1995,
18 corrected the renewal period which was the subject of item 2, and
19 changed the hours of deficiency from 12 to 22. The due date of
20 the administrative fines was changed to October 26, 1995.

21 15. On or about November 1, 1995, Respondent
22 provided documentation to support compliance with the abatement
23 and correction, as to completion of Continuing Education hours
24 under items 1 and 2, of Citation CT-95-43.

25 16. On or about June 21, 1996, Respondent submitted a
26 payment in the amount of \$200.00 towards satisfaction of the
27 administrative fine relative to Citation CT-95-43.

1 17. On or about September 27, 1996, Respondent
2 submitted a payment in the amount of \$200.00 towards satisfaction
3 of the administrative fine relative to Citation CT-95-43. There
4 have been no further payments made toward satisfaction of
5 Citation CT-95-43 since September 27, 1996, leaving the amount of
6 \$1850.00 unpaid on the Citation.

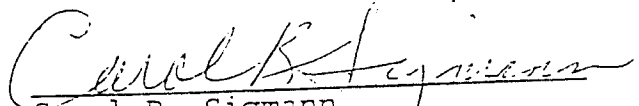
7 18. Respondent has failed to comply with the Citation,
8 by failing to comply with the final order to pay administrative
9 fines, leaving \$1850 unpaid from the total of \$2250 imposed, and,
10 as a result, Respondent's Certificate is subject to discipline
11 for unprofessional conduct in violation of CCR Section 95.4, in
12 conjunction with B&P Code section 5100(f).

13 PRAYER

14 WHEREFORE, complainant requests that the Board hold a
15 hearing on the matters alleged herein, and that following said
16 hearing, the Board issue a decision:

- 17 1. Revoking or suspending Certified Public Accountant
18 Certificate Number CPA 31743, heretofore issued to
19 respondent Ronald James Dale; and
20 2. Taking such other and further action as the Board
21 deems appropriate.

22 DATED: December 9, 1997

23 
24 Carol B. Sigmann
25 Executive Officer
26 Board of Accountancy
27 Department of Consumer Affairs
State of California

Complainant



Ronald James Dale
17096 Sequoia #F
Hesperia, CA 92345

Citation No. CT-95-43
License No. CPA 31743

An investigation has been conducted by the California Board of Accountancy. This citation is hereby issued to you pursuant to the Board of Accountancy's authority under Sections 125.9 and 5100 of the Business and Professions Code and Rule 95 - 95.6 of Title 16, Chapter 1 of the California Code of Regulations (hereinafter "Board Rules") for the violation(s) which were found during the investigation.

This citation details each violation charged and orders of correction where applicable. IT IS YOUR RESPONSIBILITY TO READ THE ENTIRE CITATION.

Unless contested, this citation shall become a final order of the Board on May 21, 1995, the correction(s) are due on or before June 21, 1995, and the administrative fine totaling \$2250 is due on or before June 21, 1995.

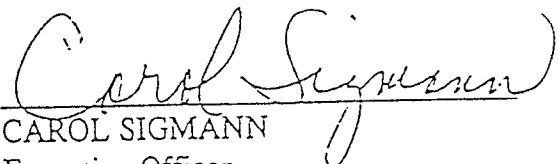
Payment of the administrative fine should be made payable to the State Board of Accountancy by cashier's check or money order. Please include the citation number on the payment.

You are responsible for notifying the Board of Accountancy when correction is made. Proof of correction must be received at the above address not later than five (5) working days after the correction due date.

Please include the citation number on all correspondence.

FAILURE TO RESPOND TO THIS CITATION WILL RESULT IN FURTHER DISCIPLINARY ACTION AGAINST YOUR LICENSE.

April 21, 1995
Date


CAROL SIGMANN
Executive Officer
STATE BOARD OF ACCOUNTANCY

CS:sn:adw

Item No. 1

Section(s)
Violated:

Business and Professions Code Section 5100(f)

Business and Professions Code Section 5100(f) states in pertinent part:
"After notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct which includes, but is not limited to, one or any combination of the following causes:

(f) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter."

California Code of Regulations Title 16, Division 1, State Board Of Accountancy, Article 12, Section 87.6 - Records Review Continuing Education Requirements

"(a) The Positive Program Enforcement Committee is a committee appointed by the board to determine the degree of compliance with, and through educational efforts to promote adherence to, technical accounting auditing standards. Following a review of a licensee's records, including those records selected under rule 89.1, the positive enforcement program committee may order a licensee to:

(1) Complete one or more of the 80 hours of qualifying continuing education required by Section 87(a) in a designated course of study which will contribute to the licensee's professional competence.

(b) Failure of a licensee to comply with an order by the committee made pursuant to this section constitutes cause for disciplinary action under Section 5100 of the Business and Professions Code."

Description
of Violation:

Under the provisions of Rule 87.6, Ronald James Dale was required to complete sixteen (16) hours of qualifying continuing education as mandated by the Positive Enforcement Program Committee. The mandated courses were to be completed in the areas of Financial Statement Disclosure, (8) hours, and Accounting Update, (8) hours. Compliance with this request was to be met on or before June 1, 1993.

As of November 1994, Ronald James Dale has failed to provide the Board documentation of completion of mandated CE hours.

Order of
Abatement:

Complete the sixteen (16) hours of continuing education as prescribed by the Positive Enforcement Program Committee.

Order of
Correction:

Submit course completion certificates to the Board showing compliance with the above.

Time to
Correct:

Sixty (60) days

Administrative
Fine:

\$1250.00

Item No. 2

Section(s)
Violated:

California Code of Regulations - Rule 87(a)

Rule 87(a) states "A licensee shall not engage in public practice as defined in Business and Professions Code Section 5051 or any activities referred to in Rule 5, in California, unless during the two-year period immediately preceding permit renewal the licensee has completed 80 hours of qualifying continuing education and submitted the statement required by Section 89. No carryover is permitted from one two-year period to another."

Description
of Violation:

On the renewal application for the period ending March 31, 1992, ^{10/1/91}
Ronald James Dale, certified under penalty of perjury completion of eighty (80) hours of continuing education. When later requested to provide documentation of continuing education hours, only sixty-eight (68) hours could be verified.

Order of
Abatement:

Cease and desist practicing as a CPA in California until you have completed the required continuing education hours.

Order of
Correction:

Supply evidence of completion of twelve (12) hours of Continuing Education taken within sixty (60) days of the effective date of this citation.

Time to
Correct:

Sixty (60) days

Administrative
Fine:

\$1000.00